



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/681,107

10/09/2003

Jae-Ser Lee

45688

8117

7590 09/29/2010
Christian C. Michel
Roylance, Abrams, Berdo & Goodman, L.L.P.
Suite 600
1300 19th Street, N.W.
Washington, DC 20036

EXAMINER

DANG, HUNG Q

ART UNIT

PAPER NUMBER

2612

MAIL DATE

DELIVERY MODE

09/29/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/681,107	Applicant(s) LEE ET AL.	
	Examiner HUNG Q. DANG	Art Unit 2612	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 September 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-7.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.

/Brian A Zimmerman/
Supervisory Patent Examiner, Art Unit 2612

/Hung Q Dang/
Examiner, Art Unit 2612

Continuation of 11. does NOT place the application in condition for allowance because: A telephone interview was initiated by the Applicant's Representative on 9/22/2010 at 3PM. The Applicant's representative proposed to further amend the claims. It was agreed that the Examiner will respond to the newly proposed claim's amendments upon the receipt of the proposed filed claims' amendment. The Applicant's arguments dated 9/1/2010 are not persuasive. a) The Applicant traverses the 35 USC 112 (2) rejection of claims 1, 4 and 7 since the term "standby state" is well understood to one of ordinary skill in the art. The Examiner maintains that while the term "standby state" is known to one of ordinary skill in the art, the step "when communication is tried during the remote control mode, providing communication service at the portable terminal upon a user's selection after displaying the communication standby state on a display of the portable terminal" is not clearly understood. b) The Applicant argues that Stenman does not teach a device that switches from a remote control mode, to a communication mode, and back again to remote control mode when the communication ends. The Examiner maintains that: according to one of KSR Rationales, "combining prior art elements according to known methods to yield predictable results" would have been obvious to one of ordinary in the art. In this case, the facts are:

- the device of Stenman et al. does have two modes of operation.
- said two modes MUST be somehow manually or automatically switched.
- the device of Stenman et al. is considered as a cellular phone.
- conventional cellular phones have been typically equipped with a display.
- Nagata teaches a cellular phone having a display.

Therefore, in light of the indicated KSR Rationale, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine all of the above elements to derive the predictable claimed steps of mode switching having such standby state. c) The Applicant simply states that the Examiner cannot take Official Notice of switching between an infrared control mode and a cellular communication mode. However, the Examiner did not give Official Notice for such feature. The Examiner gives Official Notice for modulating the oscillated remote control pulse to an infrared ray and sending the infrared ray. The Examiner maintains that such electronic input/output pulse features/implementations have been commonly implemented in electronic devices for generating a pulse or any desired signal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide such features to the portable terminal disclosed by Chiloyan et al. in view of Stenman et al.